IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTY FIRST DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 23491 of 1995

Between:

1 V.R.K.RAJU, S/O.LATE SURAPA RAJU,
R/O. MIG-2 F-11/B12, BAGHLINGAMPALLY, HYDERABAD.
2 M/S. DIVYA CHIT FUND PVT. LTD., & OTHERS REP BY ITS MANGING DIRECTOR,
H.NO.MIG 2, F-11, B-12, BAGLINGAMPALLY, HYDERABAD.

..... PETITIONER(S)

AND

1 DISTRICT CONSUMERS DISPUTES REDRESAL FORUM,

HYDERABAD DISTRICT,
OPP: ANAND CINEMA, SECUNDERABAD.
2 K.SWAROOPA RANI, W/O. K.CH.VARMA,
R/O. N.C.L. INDUSTRIES LTD., NANDIGEON,
KOTHUR MANDAL, MAHBOOBNAGAR DISTRICT.
3 THE COMMISSIONER OF POLICE,
HYDERABAD CITY, PURANAHAVELI, HYDERABAD.

...RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records relating to I.S.No.670/1994 in C.D.No.1470/1993 & C.D.No.1470/93 dt. 10-6-1994 and 24/1/95 of the District Forum, Hyderabad and issue appropriate Writ, Order or direction, particularly in the nature of a Writ of Certiorari, quashing the same as being illegal and un constitutional.

Counsel for the Petitioner:MR.CH.V.SURYANARAYANA MURTHY

(Not present)

Counsel for the Respondent No 1: --

Counsel for the Respondent No 2:--

Counsel for the Respondent No.3: GP FOR HOME

The Court made the following :

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 23491 OF 1994

The present writ petition is filed seeking the following relief:

> "…please to call for the records relating to I.A.No.670 of 1994 in C.D.No.1470 of 1993 and C.D.No.1470 of 1993 and 1016 of 1994 dated 24-1-1995 of the District Forum, Hyderabad and issue appropriate writ, order or direction, particularly in the nature of a writ of certiorari, quashing the same , duly declaring that section 27 of the Consumer Protection Act as unconstitutional and violative of petitioner's fundamental rights ….."

The brief facts, which lead to filing of the present writ petition are as under:

The complainant filed C.D.1470 of 1993 on the file of the District Forum, Hyderabad district under section 12 of the Consumer Protection Act, 1986 (for short the Act) against the petitioner herein. The Consumer forum on consideration of the matter, by order dated 10-6-1994, partly allowed the same, the operative portion of the order reads as under:

> "In the result this complaint is partly allowed and the opposite party is ordered to refund to the complainant the said amount of Rs.40,000/- with interest thereon at 12 % per annum from 1-2-1993 and costs of Rs.500/- within one month from the date of this order."

Since, the above order was not complied with, the complainant filed I.A.No.670 of 1994 under section 27 of the Act for execution of the order dated 10-6-1994. Thereupon, the Consumer forum by order dated 24-1-1995 allowed the said application, the operative portion of the order reads as under:

> "In the result this petition is allowed and Sri V.R.K.Raju, the Managing Partner of the Opposite party is punished with imprisonment for a period of two months and a fine of Rs.2000/- or in default of payment thereof further imprisonment fro two months. Warrant of arrest shall follows"

Questioning the above order, the present writ petition is filed contending that the petitioner being Managing Director of the company is an individual and has only limited liability under the Companies Act, 1956 and that the section 27 of the Consumer Protection Act, is contrary to Article 21 of the Constitution of India.

This Court while admitting the writ petition, by order dated 18-10-1995 granted interim stay of operation of orders passed in I.A.No.670 of 1994 in C.D.No.1470 of 1993 dated 24-1-1995 on the file of the Consumer Disputes Redressal Forum, Hyderabad.

Learned counsel for petitioner called absent and the matter is taken up for disposal on merits and based on material available on record.

Section 27 of the Act, reads as under :

> "Where a trader or a person against whom a complaint is made fails or omits to comply with any order made by the District Forum, the State Commission or the National Commission, as the case may be, such trader or person shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to three years, or with fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees, or with both"

It is to be noted that section 27 provides for execution of the orders passed by the Consumer forum and as against the order dated 10-6-1994 passed by the Consumer Forum under Section 12 of the Act, an appeal lies under section 15 of the Act. Section 15 of the Act, reads as under;

> "Any person aggrieved by an order made by the District Forum may prefer an appeal against such order to the State Commission within a period of thirty days from the date of the order, in such form and manner as may be prescribed;
>
> Provided that the State Commission may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there

was sufficient cause for not filing it within that period."

If the petitioner is aggrieved by the order dated 10-6-1994, passed by the Consumer Forum, it is open for him to file an appeal as against the said order. Admittedly, the petitioner has neither complied with the said order nor filed any appeal as provided under section 15 of the Act. Prima facie, the petitioner has not made out any case, warranting interference of this Court in exercise of jurisdiction under Article 226 of the Constitution of India. The writ petition is liable to be dismissed and the same is hereby dismissed. However, the petitioner is at liberty to avail such remedies available to him under law. No costs.

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N.V.RAMANA,J

31-8-2004

TVK

To

1 DISTRICT CONSUMERS DISPUTES REDRESAL FORUM,

HYDERABAD DISTRICT,
OPP: ANAND CINEMA, SECUNDERABAD.

2 THE COMMISSIONER OF POLICE,
HYDERABAD CITY, PURANAHAVELI, HYDERABAD.

3. 2CCs to G.P. for Home, High court of A.P. building, Hyderabad

4. 2CD copies

*Form-NIC-OGS/WP{**SUNITHA**}*